



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

FEB 26 2010

REPLY TO THE ATTENTION OF:

R-19J

Warren C. Swartz, Jr., President
Tribal Council
Keweenaw Bay Indian Community
Keweenaw Bay Tribal Center
16429 Beartown Road
Baraga, MI 49908

Dear President Swartz:

Thank you for your letter dated February 5, 2010, concerning a formal petition to the U.S. Environmental Protection Agency to conduct a Preliminary Assessment (PA) on the Humboldt Mill, located in Marquette County, Michigan, pursuant to Section 105(d) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9605(d). Your letter indicates that you believe that contaminants migrating from Humboldt Mill have directly and adversely affected treaty reserved rights within the Escanaba River watershed, that the current conditions of the Humboldt Mill pose a risk to human health and the environment, and that the site would likely score high enough for potential proposal as a Superfund site.

Under CERCLA, EPA has one year from the date of receipt of a petition to complete a preliminary assessment or explain why a preliminary assessment is not appropriate. We consider your request a high priority, however, and intend to complete our review of the petition request and determine whether a preliminary assessment is appropriate within the next two months. My staff is currently evaluating your petition to determine whether a preliminary assessment is appropriate. In making this determination, EPA considers whether there is sufficient reason to believe that there is a release or threatened release that may pose a threat to human health and the environment, whether EPA has the legal authority under CERCLA to respond to the site, and whether other programs are involved in cleaning up the site. If EPA determines that a PA is appropriate, we will work with a contractor to initiate and complete the PA within one year of your petition request.

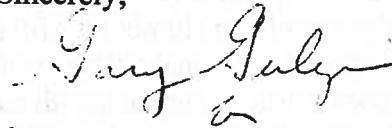
A Preliminary Assessment is a limited-scope, screening investigation performed by States and/or EPA on eligible sites following site discovery. During a PA, investigators collect readily available information and conduct a site reconnaissance. The goal of a PA is to distinguish sites that pose relatively little or no threat to human health and the environment from sites that require further investigation. Please note that a PA would not relate to the current permitting process at Humboldt Mill, but rather would be

focused on historic contamination. As a part of a PA, EPA will determine if a Site Inspection (SI) is also warranted. During an SI, EPA further evaluates the extent to which a site presents a threat to human health or the environment by, among other things, collecting and analyzing wastes and environmental media samples to determine whether hazardous substances are present at the site and are migrating to the surrounding environment.

At the recent historic White House Tribal Nations Conference, President Obama signed a Memorandum on Tribal Consultation, pronouncing tribal consultation "a critical ingredient of a sound and productive Federal-tribal relationship." EPA is committed to meeting its obligations under EO 13175, and building upon the successful government-to-government relationships that have been created under the 1984 EPA Indian Policy. Accordingly, I have instructed Patrick Hamblin and Sharon Jaffess of the Superfund Division to contact Todd Warner of your staff within the next two weeks to discuss steps for consultation. If either a PA or SI is performed, we anticipate sharing with the Tribe the reports generated as a part of the review.

Again, thank you for your letter. If you have any questions on this matter please contact me, or your staff may contact Luke Jones, Director, Indian Environmental Office at (312) 353-2087.

Sincerely,

A handwritten signature in black ink, appearing to read "Bharat Mathur", with a stylized flourish at the end.

Bharat Mathur
Acting Regional Administrator

cc: Todd Warner, Director, Natural Resources Department